UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/552,105	04/19/2000	Peter H. Schmidt	1331-US	3061

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EXAMINER
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ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 September 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Response to Amendment

1.   This office action is in response to the amendment filed on September 15, 2003

(Paper No. 9). Original application contained claims 1-21. Claims 1,2,3,17, and 19 have

been amended. Claim 21 has been cancelled. Amendment filed on September 15, 2003

have been entered and made of record. Therefore, pending claims 1-20 are presented for

further consideration and examination.

2.   The indicated allowability of claims 17-20 is withdrawn in view of the newly

discovered reference(s) Ventura U.S. Patent 6,604,141 and Kaffine et al. U.S. Patent

6,654,914. Rejections based on the newly cited reference(s) follow.

3.   Pending claims 1-20 are presented for further consideration and examination.

Response to Arguments

4.   Applicant's arguments with respect to currently amended claims 1-20 have been

considered but are moot in view of the new ground(s) of rejection.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1,4,5,7-16 rejected under 35 U.S.C. 103(a) as being unpatentable over

Stephanou U.S. Patent 6,513,013 in view of Ventura U.S. Patent 6,604,141.

3.   Referring to claims 1, and 5, Stephanou reference discloses providing with a diagnostic unit (Expert Reference Server) a diagnostic website (Internet), receiving, through the diagnostic website with the diagnostic unit (Expert Reference Server), a communication from a subscriber experiencing a problem with a network (col. 3, lines 30-40); however, Stephanou fails to disclose determining with said diagnostic unit configuration information of said subscriber from said communication, and forwarding, with said diagnostic unit, said configuration information to a selected network element.

Ventura reference discloses determining with said diagnostic unit (expert system) configuration information (description of problem hat will be resolved) of said subscriber from said communication, and forwarding, with said diagnostic unit (expert system), said configuration information to a selected network element (knowledge base), and forwarding said configuration information electronically (Figures 3, and 5; col. 2, lines 23-40; and col. 8, lines 36 through col. 9, 1st paragraph).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Ventura's teaching into Stephanou's method to determine the configuration information and forward it to a network element to provide an easily accessible means for interacting with an automated technical support capability.

4.   Referring to claims 4, and 13, Stephanou disclose selected network element comprises a service provider associated with at least a portion of the network, and step of determining includes the step of authenticating a password supplied by said subscriber for an Internet Service Provider (ISP) Net (Figure 2a, and 4; in order to access the internet to report the problem the user first need to authenticate, which require login and password).

5.   Referring to claims 7-9, Stephanou reference discloses step of determining

configuration information includes obtaining an identification of said subscriber, and step

of obtaining an identification of said subscriber includes determining a username of said

subscriber, and step of obtaining an identification of said subscriber includes obtaining at

least one of authentication information associated with said username, a phone number of

said subscriber and a time stamp (col. 4, lines 5-11).

6.   Referring to claim 10, Stephanou reference discloses step of determining includes

the step of emulating with said diagnostic unit at least one of login services to said

subscriber, authentication services to said subscriber, e-mail services to said subscriber

and the Internet to said subscriber (col. 5, lines 55-61).

7.   Referring to claim 11, Stephanou reference discloses data sent by said subscriber;

and the format of data sent by said subscriber (col. 3, lines 19-48).

8.   Referring to claim 12, Stephanou reference discloses step of determining includes

the step of negotiating a protocol between said subscriber and said diagnostic unit, said

protocol selected from the group consisting of modem training, network control

protocols, authentication protocols, compression protocols and upper layer protocols (Fig.

4, and col. 7, lines 43-48).

9.   Referring to claim 14, Stephanou reference discloses sending an e-mail to a

diagnostic unit from said subscriber (col. 3, lines 34-40); and receiving an e-mail from

said diagnostic unit by said subscriber (col. 4, lines 15-21).

10.   Referring to claim 15, Stephanou reference discloses the step of identifying said

subscriber by said identification information within a trouble ticketing system of said

service provider (Fig. 6, and 9; col. 7, lines 64-67).

11.   Referring to claim 16, Stephanou reference discloses the steps of prioritizing said

subscriber by said identification information within said trouble ticketing system of said

service provider (Fig. 9; and col. 7, lines 57 through col. 8, lines 2).

12.   Claims 2,3, and 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over

Stephanou and Ventura in view of Kaffine et al. U.S. Patent 6,654,914.

13.   Referring to claims 2,3, and 6, Stephanou and Ventura reference disclose

receiving, with a diagnostic unit (Expert Reference Server), a communication from a

subscriber experiencing a problem with a network; however, Stephanou fails to disclose a

step of receiving comprises utilizing at least one Fault Tolerant Protocol stack to allow

communication between said subscriber and said diagnostic unit for diagnosis purposes;

and at least one Fault Tolerant Protocol stack permits communication with said

subscriber when said subscriber is misconfigured.

Kaffine reference disclose a utilizing at least one Fault Tolerant Protocol stack to

allow communication between nodes, and at least one Fault Tolerant Protocol stack

permits communication with said subscriber when said subscriber is misconfigured

(col.7, lines 16-65).

It would have been obvious to one of the ordinary skill in the art at the time of the

invention was made to incorporate Kaffine's teaching into Ventura's and Stephanou's

method to use a Fault Tolerant Protocol when the subscriber is misconfigured, because by

using the Fault Tolerant Protocol to detect and handle the failure events consistent with

recovery from normal error condition.

14.   Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Stephanou in view of Kaffine et al. U.S. Patent 6,654,914.

15.   Referring to claims 17, and 18, Stephanou reference disclose providing a

diagnostic unit (Expert Referral Server) in communication with a network (Fig. 1; and

col. 3, lines 28-40); receiving, with said diagnostic unit, a communication from a

subscriber unable to communicate with a desired network element (col. 3, lines 30-40);

however, Stephenou reference fail to disclose allowing communications between said

subscriber and said diagnostic unit by accepting data from said subscriber in a source

protocol inconsistent with a network element protocol of a selected network element;

establishing a communication link with the subscriber and sending an indication of the

data received from the subscriber to the selected network element in a protocol consistent

with the network element protocol, and allowing comprises utilizing at least one fault

tolerant protocol stack.

Kaffine reference disclose Fault Tolerant Protocol stack to allow communications

between the subscriber and the diagnostic unit by accepting data from said subscriber in a

source protocol inconsistent with a network element protocol of a selected network

element; establishing a communication link with the subscriber and sending an indication

of the data received from the subscriber to the selected network element in a protocol

consistent with the network element protocol (col.7, lines 16-65).

It would have been obvious to one of the ordinary skill in the art at the time of the

invention was made to incorporate Kaffine's teaching into Stephanou's method to use the

Fault Tolerant Protocol to allow communication between the subscriber and the

diagnostic unit when source protocol is inconsistent with the network element protocol,

as a result, it allows the subscriber to communicate with diagnostic unit without

assistance by support personnel.

16.   Referring to claims 19, and 20, Stephanou reference discloses a processor (Expert

Referral Server) in communication with a subscriber and with a network (col. 3, lines 28-

40); and storage associated with said processor, said storage capable of storing

instructions for causing said processor to receive data from said subscriber and to

determine configuration information of said subscriber (col. 3, lines 41-59); however,

Stephenou reference fail to disclose instruction include instructions for accepting data

from said subscriber in a source protocol inconsistent with a network element protocol of

a selected network element, establishing a communication link with the subscriber and

sending an indication of the data received from the subscriber to the selected network

element in a protocol consistent with the network element protocol, and instruction

further include instructions for causing processor to forward configuration information to

a selected network element.

Kaffine reference disclose Fault Tolerant Protocol stack to allow communications

between the subscriber and the diagnostic unit by accepting data from said subscriber in a

source protocol inconsistent with a network element protocol of a selected network

element, establishing a communication link with the subscriber and sending an indication

of the data received from the subscriber to the selected network element in a protocol

consistent with the network element protocol, and instruction further include instructions

for causing processor to forward configuration information to a selected network element.

(col.7, lines 16-65).

It would have been obvious to one of the ordinary skill in the art at the time of the

invention was made to incorporate Kaffine's teaching into Stephanou's method to use the

Fault Tolerant Protocol to allow communication between the subscriber and the

diagnostic unit when source protocol is inconsistent with the network element protocol,

as a result, it allows the subscriber to communicate with diagnostic unit without

assistance by support personnel.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-

5315. The examiner can normally be reached on Mon -Thu (7AM-4:30PM) and off

every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for

the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-305-

3900.

Phuoc H. Nguyen
Examiner
Art Unit 2143

November 25, 2003

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100